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Via Certified Mail -
Return Receipt Requested

April 27, 2016

Troy Mitchell, Wastewater Utility Supervisor
Head of Agency
Clear Creek Wastewater Treatment Plant
2220 Metz Road
Anderson, CA 96007

Dave Johnson, Wastewater Utility Supervisor
Head of Agency
Stillwater Wastewater Treatment Facility
6475 Airport Road
Anderson, CA 96007

Kurt Starman, City Manager
Members of the City Council
City of Redding
777 Cypress Avenue, 3rd Floor
Redding, CA 96001

Ryan E. Bailey, Wastewater Utility Manager
Head of Agency
Public Works Dept. - Wastewater Utility Div.
City of Redding
P.O. Box 496071
Redding, CA 96001

Re: Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Messrs. Mitchell, Johnson, Starman and Bailey, Members of the City Council, and Head of Agency:

STATUTORY NOTICE

This Notice is provided on behalf of California River Watch ("River Watch") in regard to violations of the Clean Water Act ("CWA" or "Act;") 33 U.S.C. § 1251 *et seq.*, that River Watch alleges are occurring as a result of operations at the Stillwater Wastewater Treatment Facility and Clear Creek Wastewater Treatment Facility ("Facilities") and associated sewage collection system.

River Watch hereby places the City of Redding ("the City") as owner and operator of the Facilities and associated sewage collection system on notice, that following the expiration of 60 days from the date of this Notice, River Watch will be entitled under CWA § 505(a), 33 U.S.C. § 1365(a), to bring suit in the U.S. District Court against the City for continuing violations of an effluent standard or limitation, permit condition or requirement, or a Federal or State Order or Permit issued under CWA § 402, 33 U.S.C. § 1342, and the Regional Water Quality Control

Board, Central Valley District, Water Quality Control Plan ("Basin Plan"), as the result of alleged violations of permit conditions or limitations set forth in the City's two National Pollutant Discharge Elimination System ("NPDES") permits.

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that any discharge of pollutants is prohibited with the exception of enumerated statutory exceptions (*see* CWA § 301(a), 33 U.S.C. § 1311(a)). One such exception authorizes a discharger, who has been issued a permit pursuant to CWA § 402, 33 U.S.C. § 1342, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a NPDES permit define the scope of the authorized exception to the CWA § 301(a), 33 U.S.C. § 1311(a) prohibition, such that violation of a NPDES permit limitation places a discharger in violation of the CWA.

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the Environmental Protection Agency ("EPA") to a state or to a regional regulatory agency, provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria (*see* CWA § 402(b), 33 U.S.C. § 1342(b)). In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board and several subsidiary regional water quality control boards to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating the City's operations in the regions at issue in this Notice is the Central Valley Regional Water Quality Control Board ("RWQCB-R5").

While delegating authority to administer the NPDES permitting system, the CWA provides that enforcement of the statute's permitting requirements relating to effluent standards or limitations imposed by the Regional Boards can be ensured by private parties acting under the citizen suit provision of the statute (*see* 33 U.S.C. § 1365). River Watch is exercising such citizen enforcement to enforce compliance by the City with its NPDES permits.

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

1. *The Specific Standard, Limitation, or Order Alleged to Have Been Violated*

River Watch identifies the City's alleged violations of permit conditions or limitations set forth in the following two NPDES permits:

- RWQCB Order No. R5-2007-0058, re-adopted (as amended) May 30, 3013 by Order No. R5-2013-0043, NPDES No. CA0082589 (*Waste Discharge Requirements for the City of Redding, Stillwater Wastewater Treatment Facility, Shasta County*); and,

- RWQCB Order No. R5-2010-0096, NPDES No. CA0079731 (*Waste Discharge Requirements for the City of Redding, Clear Creek Wastewater Treatment Plant, Shasta County*).

A violation of these NPDES permits is a violation of the CWA.

The City is also a permittee under the Statewide General Requirements for Sanitary Sewer Systems, Waste Discharge Requirements Order No. 2003-0005-DWQ and 2013-0001-DWQ ("Statewide WDR") governing the operation of sanitary sewer systems. Failure to comply with the Statewide WDR is a major cause of sewage system overflows. The Statewide WDR is fully incorporated in Orders No. R5-2013-0043 and No. R5-2010-0096.

2. *The activity alleged to constitute a violation.*

Most often, the NPDES permit standards and limitations allegedly violated are self-explanatory and an examination of the language of the NPDES permits themselves is sufficient to inform the City of its failure to fully comply with permit requirements. This is particularly so since the City is responsible for monitoring its operations to ensure compliance with all permit conditions. River Watch sets forth the following narratives which identify with particularity the activities alleged to be violations. River Watch does so following a review of public records (e.g. the City's Self- Monitoring Reports and the California Integrated Water Quality System ("CIWQS") reporting system) relating to operations at the Facilities and associated collection system. Additional records and other public documents in the City's possession or otherwise available to the City regarding its NPDES permits may, upon discovery, reveal additional violations.

River Watch contends that from April 26, 2011 through April 26, 2016, the City violated the Act and the following identified requirements of its NPDES permits with respect to its effluent discharge and the operation of its sewage collection system. The following prohibitions apply to the City:

Stillwater Wastewater Treatment Facility

- Discharge Prohibition III. A. "Discharge of wastewater at a location or in a manner different from that described in the Findings is prohibited."

- Discharge Prohibition III. B. "The by-pass or overflow of wastes to surface waters is prohibited, except as allowed by Federal Standard provisions I.G and I.H. (Attachment D)."

- Discharge Prohibition III. C. "Neither the discharge nor its treatment shall crease a nuisance as defined in section 13050 of the Water Code."

- Discharge Prohibition III. D: "The Discharger shall not allow pollutant-free wastewater to be discharged into the treatment or disposal system in amounts that significantly diminish the system's capability to comply with this Order. Pollutant-free wastewater means rainfall, groundwater, cooling waters, and condensates that are essentially free of pollutants."

- Discharge Prohibition III. E.: "Where any numeric or narrative water quality objective contained in the Basin Plan is already being violated, the discharge of waste that causes further degradation or pollution is prohibited."

- Discharge Prohibition III. F.: "The Discharger shall not cause pollution as defined in Section 13050 of the California Water Code."

Clear Creek Wastewater Treatment Facility

- Discharge Prohibition III. A. "Discharge of wastewater at a location or in a manner different from that described in the Findings is prohibited."

- Discharge Prohibition III. B. "The by-pass or overflow of wastes to surface waters is prohibited, except as allowed by Federal Standard provisions I.G and I.H. (Attachment D)."

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a. Violations of Effluent Limitations

The City's Self-Monitoring Reports ("SMRs") identify the following violations (by violation number, date of alleged violation, and pollutant) of effluent limitations imposed under the City's NPDES permits:

Clear Creek Wastewater Treatment Facility:

931522	(06/30/2012)	**monitoring**
973696	(06/02/2014)	**monitoring**
973695	(06/02/2014)	**copper**
973697	(06/30/2014)	**copper**
994388	(05/05/2015)	**coliform**
995440	(07/06/2015)	**zinc**
995439	(07/31/2015)	**zinc**
1005198	(10/22/2015)	**pH**

Stillwater Wastewater Treatment Facility:

892527	(01/27/2011)	**chlorine**
892526	(01/23/2011)	**chlorine**
900185	(03/26/2011)	**order conditions**
900186	(03/26/2011)	**order conditions**
900187	(03/26/2011)	**order conditions**
920261	(01/12/2012)	**pH**
920262	(01/13/2012)	**pH**
935344	(07/09/2012)	**copper**
939833	(10/12/2012)	**copper**
955708	(08/19/2013)	**coliform**
957694	(09/14/2013)	**coliform**
957695	(09/16/2013)	**coliform**
957697	(09/17/2013)	**coliform**

957696	(09/18/2013)	**coliform**
958996	(10/08/2013)	**coliform**
958997	(10/09/2013)	**coliform**
979189	(09/30/2014)	**zinc**
994062	(06/02/2015)	**dibromochloromethane**
994063	(06/15/2015)	**chlorine**
1005791	(07/12/2015)	**pH**
1005792	(07/16/2015)	**pH**
1000798	(11/10/2015)	**chlorine**
1000799	(11/10/2015)	**chlorine**

In addition to the violations identified by the City in its SMRs, River Watch's review of the SMRs suggests that additional unreported violations may have occurred. River Watch looks forward to discussing this concern with City staff.

This Notice will be updated to reflect additional violations reported and unreported by the City in its SMRs.

b. Collection System Surface Discharges Caused by Sanitary Sewer Overflows

Sanitary Sewer Overflows ("SSOs"), in which untreated sewage is discharged above ground from the collection system prior to reaching the Facilities, are alleged to have occurred both on the dates identified in the CIWQS Public SSO Reports and on dates when no reports were filed by the City. The CIWQS "Spill Public Report – Summary Page identifies 116 "Total Number of SSO locations," with 482,199 "Total Vol of SSOs (gal)), of which 380791 "Total Vol Reach Surface Water, " amounting to 78% of the total.[1]

River Watch contends these violations are continuing in nature or have a likelihood of occurring in the future.

Discharges to Surface Waters. River Watch's expert believes, and River Watch alleges, that many of the SSOs reported by the City as having been contained without reaching a surface water did in fact discharge to surface waters, and those reported as partially reaching surface waters did so in greater volume than stated. The claim of full containment is further called into question by the fact that some of the City's SSO reports filed by the City state the estimated start time of the SSO as the same time as, or very soon after, the City was notified of or discovered the spill. This was the case on January 5, 2016 at the spill occurring at Manhole M11-20 just

[1] (https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/PublicReportSSOServlet; April 21, 2016).

east of 1681 Cypress Street in Redding (CIWQS Event ID # 820848), resulting in a total spill volume of 5,500 gallons reaching Churn Creek. The report indicates the spill beginning at 13:00 p.m. on January 5, 2016 and the agency notification at the very same time. Studies have shown that most SSOs are noticed significantly after they have begun.

A careful review of the City's Reports indicates that given the unlikely accuracy of the times given on these reports it is difficult to consider the stated time as accurate. As the volume of SSOs of any significance is estimated by multiplying the estimated flow rate by the duration of the spill event, the practice of estimating a later than actual start time results in underestimating both the duration and the volume of a spill.

Mitigating Impacts. River Watch contends the City fails to adequately mitigate the impacts of SSOs. The Statewide WDR mandates that the permittee shall take all feasible steps to contain and mitigate the impacts of a SSO. The EPA's *'Report to Congress on the Impacts of SSOs'* identifies SSOs as a major source of microbial pathogens and oxygen depleting substances. Numerous critical habitat areas exist within the areas of the City's SSOs. There is no record of the City performing any analysis of the impacts of SSOs on critical habitat of protected species under the federal Endangered Species Act, nor any evaluation of the measures needed to restore water bodies designated as critical habitat from the impacts of SSOs.

c. Collection System Surface Discharges Caused by Underground Exfiltration

It is also a well-established fact that exfiltration caused by pipeline cracks and other structural defects in a collection system result in discharges to adjacent surface waters via underground hydrological connections. River Watch contends untreated sewage is discharged from cracks, displaced joints, eroded segments, etc., of the City's collection system of piping into groundwater hydrologically connected to surface waters including, but not limited to, including tributaries of the Sacramento River such as Little Churn Creek, Little Churn Creek, Calaboose Creek, Boulder Creek, and an unnamed tributary to Jenny Creek. Surface waters become contaminated with pollutants including human pathogens. Chronic failures in the collection system pose a substantial threat to public health.

Studies tracing human markers specific to the human digestive system in surface waters adjacent to defective sewer lines in other systems have verified the contamination of the adjacent waters with untreated sewage.[2]

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[2] *See* the Report of Human Marker Study issued in July of 2008 and conducted by Dr Michael L. Johnson, U.C. Davis water quality expert, performed for the City of Ukiah, finding the presence of human derived bacteria in two creeks adjacent to defective sewer lines.

Evidence of exfiltration can also be supported by reviewing mass balance data, "inflow and infiltration" ("I/I") data, video inspection, as well as tests of waterways adjacent to sewer lines for nutrients, human pathogens and other human markers such as caffeine. Any exfiltration found from the City is a violation of its NPDES permits and thus the CWA. During the course of discovery River Watch will test surface waters adjacent to sections of the City's collection system to determine the location and extent of exfiltration.

d. Nuisance; Impact to Beneficial Uses

The City's NPDES permits prohibit the discharge of wastes that lead to the creation of a "nuisance" as defined under the California Water Code. The term "nuisance" is defined in California Water Code § 13050(m) as anything which meets all of the following requirements: 1) "is injurious to health, or is indecent or offensive to the senses . . . so as to interfere with the comfortable enjoyment of life or property;" 2) "affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal" and, 3) "occurs during, or as a result of, the treatment or disposal of wastes."

Tributaries of the Sacramento River have many beneficial uses as defined in the RWQCB-R5 Basin Plan. SSOs reaching Clover Creek, Churn Creek, Little Churn Creek, Calaboose Creek, Canyon Hollow Creek, Jenny Creek, Middle Creek, Salt Creek, Sulphur Creek, Boulder Creek, Clear Creek, and Olney Creek or their tributaries cause prohibited pollution by unreasonably affecting the beneficial uses of these waters. The City is also required by its NPDES Permits to comply with narrative standards as set forth in the Basin Plan, used when testing by numeric standards would be inadequate or impractical. Narrative Standards include:

- The discharge shall not cause the pH of the receiving waters to fall below 6.5 or exceed 8.5, or to change by more than 0.5 units.

- The discharge shall not cause the total Coliform Organisms to exceed (i.) 23 MPN per 100 mL, as a 7-day median; (ii.) 240 MPN/100 mL, more than once in any 30-day period (iii.) 500 MPN/100 ML, as a daily maximum.

- The discharge shall not cause coloration to cause nuisance or to adversely affect beneficial uses. Coloration attributable to materials of waste origin shall not be greater than 15 units or 10 percent above natural background color, whichever is greater.

- The discharge shall not cause taste or odor producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin, that cause nuisance, or that adversely affect beneficial uses.

- The discharge shall not cause oils, greases, waxes or other similar materials in concentrations that result in a visible film or coating on the water surface or on objects in the water, that cause nuisance or otherwise adversely affect beneficial uses.

River Watch has found nothing in the public record to demonstrate that the City has monitored for and complied with these narrative standards. Members of River Watch are understandably concerned regarding the effects of the Sacramento River, its tributaries and the Pacific Ocean.

3. *The person or persons responsible for the alleged violation.*

The entity responsible for the alleged violations identified in this Notice is the City of Redding as owner and operator of the Facilities and associated collection system, as well as the those of the City's employees responsible for compliance with the City's NPDES Permits and the CWA.

4. *The location of the alleged violation.*

The location or locations of the various violations are identified in records created and/or maintained by or for the City which relate to the Facilities and related activities as described in this Notice.

The City of Redding, located in the north end of the Sacramento Valley in Shasta County, is the largest city north of Sacramento, with a population of approximately 91,000.

The City currently operates and maintains the Facilities as well as the associated collection system compromised of approximately 426 miles of sanitary sewer pipeline spanning 6 to 48 inches in diameter (the majority (77%) are 6 and 8 inches), 17 raw sewage lift stations, and approximately 7,000 manholes. Approximately 12% (vertical axis) of the identified system age is older than 50 years.

The City is divided into two major collection systems, Clear Creek and Stillwater, with wastewater from each basin flowing into each facility. Each basin is further divided into smaller sanitary service areas. The Clear Creek collection system serves the Redding, North Redding,

Cascade, and Enterprise Service Areas. The Stillwater collection system serves Twin View, Eastern Enterprise, and Stillwater Creek Service Areas. The combined output from the Facilities is 31 million mgd. with expansion capabilities of 70 mgd.

Clear Creek Wastewater Treatment Facility

This facility is located at 2200 Metz Road in Anderson. Average dry weather flow for this facility is 8.8 mgd. The treatment system consists of screening for removal of large solids, grit removal, primary clarification, activated sludge treatment with secondary clarification, filtration, chlorination/dechlorination, flow equalization, and emergency storage. Primary sludge is treated by anaerobic digestion followed by de-watering using a plate and frame filter press, then disposed of at a sanitary landfill. Waste activated sludge is stabilized in facultative sludge lagoons and air dried to generate Class B biosolids. Biosolids from the secondary treatment process are applied on land owned by the City. Wastewater is discharged through a diffuser to the Sacramento River, a water of the United States within the Sacramento River Watershed.

The facility contains 12 ponds located adjacent to the Sacramento River covering a total area of approximately 93 acres. The City's May 2005 "Facilities Plan" states the total volume of the ponds to be 183 million gallons, 126 million gallons of which may be used for wet weather storage. The ponds consist of four types/uses: flow equalization; facultative sludge lagoons; sludge drying; and temporary wet weather storage.

Pond 1 is used for flow equalization. Pond 1 receives a variety of waste flows from the facility including raw, primary, and secondary effluent. Pond 1 effluent is treated further in the treatment system at the facility. Pond 3 was modified in 1990 from a 10-acre flow equalization basin into two 4.5-acre sludge storage basins (Pond 3a and 3b). Ponds 3a and 3b have a compacted clay liner engineered to a permeability of 10 -6 cm/sec. Pond 5 was modified in 2008 from a wet weather storage basin into two facultative sludge lagoons ("FSLs"), Pond 5a and 5b. The FSLs are aerated ponds which provide biological and physical treatment to sludge produced during the secondary treatment process. Ponds 5a and 5b have synthetic liners on the slopes and asphalt bottoms. Ponds 2 and 4 are unlined. Solids removed from the adjacent FSLs are placed in Ponds 2 and 4 for drying. Typically, solids are removed from the FSLs in the spring, dried in either Pond 2 or 4 during the summer, and hauled off site in early fall. The sludge drying beds are used to de-water the sludge prior to final disposal. Ponds 6, 7, 8, 9 and 10 are unlined. Solids from the Stillwater Wastewater Treatment Facility (discussed below) are currently dried in Pond 8. Wet weather flows are temporary, and all wastes from these ponds are treated in the facility's treatment system.

Stillwater Wastewater Treatment Facility

This publicly owned treatment works located at 6475 Airport Road in Anderson, services the Boulder Creek and Churn Creek drainage basins upstream of the Churn Creek Lift Station and the Clover Creek Interceptor which terminates at the facility. The collection system includes 3 lift stations and covers approximately one third of the current population of the City in the eastern and northern portions referred to as Twin View, Eastern Enterprise, and the Stillwater Creek Service Areas. The service areas contains approximately 20% commercial and industrial connections and serve Stillwater Business Park. The facility has a design flow of 3.4 mgd average dry weather flow, and 14.4 mgd peak weather flow. The treatment system consists of screening for removal of coarse and fine solids, conventional activated sludge treatment with fine bubble aeration and secondary clarification, filtration, and chlorination/dechlorination. Waste activated sludge is treated by aerobic digestion followed by a belt-filter press de-watering. Biosolids are disposed of at a sanitary landfill and/or applied to land owned by the City. Wastewater is discharged through a diffuser to the Sacramento River.

Wastewater flows during the wet weather months indicate that large volumes of rainfall dependent inflow and infiltration ("I/I") are entering the collection system as a result of aging, defective sewer lines as well as illegal storm drain and roof connections. These increased flows limit the amount of additional flow entering the system and result in the system operating at and above its peak capacity. Numerous impacts result from the I/I, the most important of which are the increased risk of SSOs, hydraulic overloading of the Facilities, and expansions of the Facilities which are needed to handle I/I related wet weather peaks. Storm season I/I can pose issues with treatment capacity as well. For example, the Clear Creek Wastewater Treatment Facility experiences wet weather influent peaks of over 40 million gallons per day, exceeding its capacity for treatment and necessitating temporary storage in emergency retention basins. Whenever dealing with peaks of this magnitude, the treatment process is impacted by the potential for solids flow-through, disinfection complications, and filtration overload. In the worst case scenario, this can lead to discharge of effluent that does not meet effluent limits.

Wildlife living in relative proximity to the Facilities includes grebe, heron, blackbird, golden eagle, beaver, muskrat, black-tailed deer, and other species typical of upland and wetland habitats. Mountain lion, Sacramento Valley Red Fox, deer, jackrabbits, otter and muskrats and also common to the area.

Churn Creek, Jenny Creek and the Sacramento River are critical habitat for threatened and endangered species. Warm water species such as sunfish and catfish are common to Churn Creek along with native species including hardhead and pike minnow. Numerous special status species include vernal pool shrimp, Shasta salamander, and the foothill yellow-legged frog.

Increasing evidence demonstrates that intermittent tributaries such as Churn Creek provide important rearing habitat for juvenile Chinook salmon migrating out of the Sacramento River. Adult fall-run salmon have been observed spawning in the upper reaches of Stillwater Creek in good water years. Wildlife agencies are researching the potential for improving anadromous fish runs in these tributaries

The Sacramento River itself supports 40 to 60 species of fish and over 200 types of birds (including migratory birds, bald eagle and golden eagle) and is relatively abundant in endemic amphibian and fish species as well as the southernmost runs of five species of anadromous fish. The River's salmon fishery generates more than $100 million annually. More than 70% of the salmon caught off California's coast spawn in the Sacramento River and its hatcheries. Wildlife found along the Sacramento River includes beaver, black-tail deer, river otter, grey squirrel, ring-tail cat, coyote, grey fox, bobcat and mountain lion.

The Sacramento River is listed as CWA § 303(d) impaired – from Keswick Dam to Cottonwood Creek for unknown toxicity; from Cottonwood Creek to Red Bluff for mercury and unknown toxicity; from Red Bluff to Knights Landing for DDT, Dieldrin, Mercury, PCBs, and unknown toxicity; and from Knights Landing to the Delta for Chlordane, DDT, Dieldrin, Mercury, PCBs, and unknown toxicity.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

The range of dates covered by this Notice is April 26, 2011 through April 26, 2016. River Watch may from time to time update this Notice to include all violations of the CWA by the City which occur during and after this period. Some violations are continuous, and therefore each day constitutes a violation

6. *The full name, address, and telephone number of the person giving notice.*

The entity giving this Notice is California River Watch, referred to herein as "River Watch." River Watch is an Internal Revenue Code § 501(c)(3) non-profit, public benefit corporation organized under the laws of the State of California, with headquarters located in Sebastopol, California and offices in Los Angeles, California. The mailing address of River Watch's northern California office is 290 S. Main Street, #817, Sebastopol, CA 95472. The mailing address of River Watch's southern California office is 7401 Crenshaw Blvd. #422, Los Angeles, CA 90043.

River Watch is dedicated to protecting, enhancing, and helping to restore surface and ground waters of California including rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna, and educating the public concerning environmental issues associated with these environs. River Watch members residing and recreating in the area of the Facilities and the surrounding watershed have a vital interest in bringing the City's operations at the Facilities and associated sewage collection system into compliance with the CWA.

River Watch has retained legal counsel with respect to the issues raised in this Notice. All communications should be directed to:

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RECOMMENDED REMEDIAL MEASURES

River Watch looks forward to meeting with City staff to tailor remedial measures to the specific operation of the City's Facilities and associated collection system. In advance of that conversation, River Watch identifies the following set of remedial measures that will advance compliance with the CWA and the Basin Plan, and help economize the time and effort the parties need to resolve their concerns.

1. DEFINITIONS

A. *Condition Assessment:* A report that comprises inspection, rating, and evaluation of the existing condition of a sewer collection system. Inspection is based upon closed circuit television ("CCTV") inspections for sewer lines, manhole inspections for structural defects, and inspections of pipe connections at the manhole. After CCTV inspection occurs, pipe conditions are assigned a grade such as the Pipeline Assessment and Certification Program ("PACP") rating system, developed by the National Association of Sewer Service Companies.

B. Full Condition Assessment: A Condition Assessment of all sewer lines in the sewer collection system.

C. Surface Water Condition Assessment: A Condition Assessment of sewer lines in the sewer collection system located sufficiently proximate to a surface water that if defective could allow exfiltration to that surface water. Whether a line is "sufficiently proximate" will depend upon a number of factors including: age, composition and PACP rating of the sewer line in question; the nature of the defect; soil types; groundwater patterns; and the like.

D. Significantly Defective: A sewer pipe is considered to be Significantly Defective if its condition receives a grade of 4 or 5 based on the PACP rating system. The PACP assigns grades based on the significance of the defect, extent of damage, percentage of flow capacity restriction, and/or the amount of pipe wall loss due to deterioration. Grades are assigned as follows:

5 – Most significant defect
4 – Significant defect
3 – Moderate defect
2 – Minor to moderate defect
1 – Minor defect

II. REMEDIAL MEASURES

River Watch believes the following remedial measures may be necessary to bring the City into compliance with the CWA and the Basin Plan:

A. *Sewer Collection System Investigation and Repair*

1. The repair or replacement, within two (2) years, of all sewer lines in the City's sewer collection system sufficiently proximate to a surface water and determined to pose a risk of exfiltrating to that surface water, which have been CCTV'd within the past ten (10) years and were rated as Significantly Defective (PACP 5 or 4) or given a comparable assessment.

2. Within two (2) years, the completion of a Surface Water Condition Assessment of sewer lines which have not been CCTV'd during the past ten (10) years.

3. Within two (2) years after completion of the Surface Water Condition Assessment above, the City will:

i. Repair or replace all sewer lines found to be Significantly Defective;

ii. Repair or replace sewer pipe segments containing defects with a rating of 3 based on the PACP rating system, if such defect resulted in a SSO, or, if in the City's discretion, such defects are in close proximity to Significantly Defective segments that are in the process of being repaired or replaced; sewer pipe segments which contain defects with a rating of 3 that are not replaced or repaired within five (5) years after completion of the Surface Water Condition Assessment are to be re-CCTV'd every five (5) years to ascertain the condition of the sewer line segment. If the City determines that the grade-3 sewer pipe segment has deteriorated and needs to be repaired or replaced, the City shall complete such repair or replacement within two (2) years after the last CCTV cycle;

4. Beginning no more than one (1) year after completion of the Surface Water Condition Assessment, the City shall commence a Full Condition Assessment to be completed within seven (7) years. Any sewer pipe segment receiving a rating of 4 or 5 based on the PACP rating system shall be repaired or replaced within three (3) years of the rating determination; and,

5. Provision in the City's Capital Improvements Plan to implement a program of Condition Assessment of all sewer lines at least every five (5) years. This program shall begin one (1) year following the Full Condition Assessment described above.

B. *SSO Reporting and Response*

1. Modification of the City's Backup and SSO Response Plan to include in its reports submitted to the CIWQS Reporting System the following items:

i. The method or calculations used for estimating total spill volume, spill volume that reached surface waters and spill volume recovered;

ii. For Category I and II Spills, a listing of nearby residences or business owners who have been contacted, to attempt to establish the SSO start time, duration, and flow rate, if such start time, duration, and flow rate have not been otherwise reasonably ascertained, such as from a caller who provides information that brackets a given time that the SSO began);

iii. Taking of photographs of the manhole flow at the SSO site using the San Diego Method array, if applicable to the SSO, or other photographic evidence that may aid in establishing the spill volume.

2. Pursuant to the City's legal duty under the Statewide WDR, Section D.7.v., the City shall have a qualified biologist develop and implement an adequate sampling program to determine the nature and impact of all SSOs.

3. Creation of website capacity to track information regarding SSOs; or in the alternative, the creation of a link from the City's website to the CIWQS SSO Public Reports. Notification to be given by the City to all customers and other members of the public of the existence of the web-based program, including a commitment to respond to private parties submitting overflow reports.

4. Performance of human marker sampling on surface waters adjacent to sufficiently proximate sewer lines to test for sewage contamination from exfiltration.

C. *Lateral Inspection/repair Program*

1. Creation of a mandatory, private sewer lateral inspection and repair program triggered by any of the following events:

i. Transfer of ownership of the property if no inspection/replacement of the sewer lateral occurred within ten (10) years prior to the transfer;

ii. The occurrence of two (2) or more SSOs caused by the private sewer lateral within two (2) years;

iii. A change of the use of the structure served (a) from residential to non-residential use, (b) to a non-residential use that will result in a higher flow than the current non-residential use, and (c) to non-residential uses where the structure served has been vacant or unoccupied for more than three (3) years;

iv. Upon replacement or repair of any part of the sewer lateral;

v. Upon issuance of a building permit with a valuation of $25,000.00 or more; or,

vi. Upon significant repair or replacement of the main sewer line to which the lateral is attached.

D. *Additional NPDES Permit Compliance – Ponds / Audit / Training*

With respect to the ponds included in the City's operation of the Clear Creek Wastewater Treatment Facility which are either unlined or clay lined and sufficiently proximate to a surface water to pose a risk of subsurface discharge to that surface water, the City shall install monitoring wells between the ponds and the surface water. The monitoring wells shall be screened at levels sufficient to measure any constituents migrating from the ponds to surface waters, and must be sampled monthly for any constituent in its effluent the City is required to measure for under its NPDES permits. In the event constituents are migrating to surface waters, the pond(s) must be repaired to prevent such discharges. Until the ponds are repaired, the City shall conduct a monthly water balance analysis and calculate the total monthly contribution of constituents migrating to surface waters, adding this total to its monthly effluent values.

On the basis of an informal audit by River Watch's experts, River Watch may require the City to hire an outside agency to perform a formal compliance audit of the City's operations at the Facilities. Recommendations arising from the formal compliance audit will be incorporated into any settlement agreement between the City and River Watch.

In the event that the City has ten (10) or more unreported violations per year in a three (3) year period, River Watch will require the training of personnel and an upgrade to the City's software that automatically identifies exceedances of its NPDES permits.

CONCLUSION

The violations set forth in this Notice effect the health and enjoyment of members of River Watch who reside and/or recreate in the affected communities identified. Members of River Watch may use the affected watershed for recreation, sports, fishing, swimming, hiking, photography, nature walks and/or the like. Their health, use, and enjoyment of this natural resource are specifically impaired by the City's alleged violations of the CWA as set forth in this Notice.

CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any "person," including a governmental instrumentality or agency, for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), § 1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil penalties of up to $37,500 per day/per violation for all violations pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1-19.4. River Watch believes this Notice sufficiently

states grounds for filing suit in federal court under the "citizen suit" provisions of the CWA to obtain the relief provided for under the law.

The CWA specifically provides a **60-day "notice period"** to promote resolution of disputes. River Watch encourages the City to contact River Watch within **20 days** after receipt of this Notice to: (1) initiate a discussion regarding the allegations detailed in this Notice, and (2) set a date for a site visit. In the absence of productive discussions to resolve this dispute, or receipt of additional information demonstrating that the City is in compliance with the strict terms and conditions of its NPDES permits and the CWA, River Watch will have cause to file a citizen's suit under CWA § 505(a) when the 60-day notice period ends.

Very truly yours,

Jack Silver

JS:lhm

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